

Notice of Allowability

Application No.

09/918,457

Examiner

Erica E Cadugan

Applicant(s)

HANS-DIETER, MULLER

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE and amendment filed 3/11/2004.
2. ☒ The allowed claim(s) is/are 6-8, 10-12, 14 and 18-20.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Erica E Cadugan
Primary Examiner
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EXAMINER'S COMMENT & REASONS FOR ALLOWANCE

Drawings (Comment)

1. It is noted that the proposed drawing correction filed on March 11, 2004 has been approved by the examiner. Additionally, it is noted that the proposed drawing correction filed on September 10, 2002 was previously approved by the examiner. Thus, formal corrected drawings incorporating these approved proposed changes MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability". Extensions of time may NOT be obtained under the provisions of 37 C.F.R. 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

Reasons for Allowance

2. The following is an examiner's statement of reasons for allowance:

U.S. Pat. No. 5,328,224 to Jacobsen et al. ('224) and U.S. Pat. No. 5,188,579 to Ruschle et al. ('579) are representative of the closest prior art of record to the present invention as set forth in independent claim 6. Both '224 and '579 were discussed in detail in the preceding office action, and such detail will not be repeated here.

Regarding '579, suffice it to say that the pivoting members 18 pivot radially with respect to the longitudinal tool axis to grip the tool (rather than axially), and thus, '579 does not teach any second member "moving along a longitudinal axis of the tool to grasp the tool by the second member" as now set forth in independent claim 6.

Additionally, there is no combinable teaching in the prior art of record that would reasonably motivate one of ordinary skill in the art to so modify '579, and for at least this

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reasoning, '579 neither anticipates nor renders obvious the present invention as set forth in the independent claim.

Regarding '224, while it is noted that as previously described, any of elements 8, 100, or 70 can be considered the claimed "first member", and that either of finger 100 or thumb 8 can be considered the claimed "second member". Note that member 8 pivots about axis 16 and that member 100 pivots on pin 86, both of which pivoting actions result in the respective member (8 or 100) moving along a theoretical longitudinal axis of a tool to be held thereby.

(It is noted that the tool described by claim 6 that is being exchanged has a shank diameter, i.e., a rounded shank, which concept is reinforced by the limitation that each of the two contact surfaces has a "peripheral angle of approximately 30°". In order for '224 to function to grip a tool to be exchanged as claimed (without dropping the tool), and particularly such that contact surfaces of the first member have a "peripheral angle of approximately 30°" as claimed, the longitudinal axis of the tool must be arranged extending into the paper as viewed in Figure 2.)

However, it is noted that neither of the members 8 or 100 includes "two contact surfaces having a peripheral spacing of approximately 60° to 90° separating the two contact surfaces and each of the two contact surfaces having a peripheral angle of approximately 30°" as set forth in independent claim 6 (see Figures 1-3).

Additionally, there is no combinable teaching in the prior art of record that would reasonably motivate one of ordinary skill in the art to so modify '224, and for at least this reasoning, '224 neither anticipates nor renders obvious the present invention as set forth in the independent claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Faxing of Responses to Office Actions and Contact Information

3. In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica Cadugan whose telephone number is (703) 308-6395. The examiner can normally be reached on Monday through Thursday from 7:30 a.m. to 5:00 p.m., and every other Friday from 7:30 a.m. to 4:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A.L. Wellington can be reached at (703) 308-2159. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 3700 receptionist whose telephone number is (703) 308-1148.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Erica E Cadugan
Primary Examiner
Art Unit 3722

eec
April 20, 2004